

**UNITES STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT**

JONATHAN B. KREISBERG,
Regional Director, Region One of the
National Labor Relations Board, for
and on behalf of the NATIONAL
LABOR RELATIONS BOARD,

Plaintiff-Appellee,

v.

15-2303

EMERALD GREEN BUILDING
SERVICES, LLC,

Defendant-Appellant.

**NATIONAL LABOR RELATIONS BOARD’S OPPOSITION
TO MOTION TO INTERVENE BY
INTERNATIONAL BROTHERHOOD OF TEAMSTERS LOCAL 25**

Plaintiff-Appellee Jonathan B. Kreisberg (“the Director”) hereby opposes International Brotherhood of Teamsters Local 25’s (“Local 25”) Motion for Leave to Intervene.

Local 25 moved to intervene in the proceeding below. The district court denied intervention, concluding that Local 25’s motion was untimely and that, in any event, Local 25’s interests in this case are adequately represented by Emerald

Green. (Docket #18, pp. 5-6.) Contrary to Local 25's contention, the district court correctly concluded that Emerald Green can adequately represent Local 25's interests and, for that reason, this Court should similarly deny Local 25 intervenor status.

Local 25 asserts two interests in this appeal: (1) protecting its members from potentially being replaced by the former Peace Plus employees who are alleged to have been unlawfully refused hire by Emerald Green and (2) maintaining its company-wide unit at Emerald Green and enforcing its collective-bargaining agreement at the affected Emerald Green locations in Cross Point and Nagog Park. (Motion, 5-6.) Both of these interests are closely aligned with Emerald Green's, who has adequately argued against displacement of the employees and in favor of maintaining Local 25 representation.

Local 25 and Emerald Green share the same ultimate goal in this litigation — to avoid an injunction requiring Emerald Green, on a temporary basis, to withdraw recognition from Local 25 and cease applying Local 25's collective-bargaining agreement to the employees at Cross Point and Nagog Park. Here, Emerald Green specifically advocated against the termination of Local 25 members and the substitution of Local 25 representation with representation by SEIU Local 32BJ. Indeed, Emerald Green strongly argued that these interim

remedies were part of, as the district court described it, “a parade of horrors.”
(Docket #20, p.22.)

The fact that Local 25 may arguably have a greater interest in protecting individual employees’ employment than Emerald Green (Motion, 6) does not establish inadequate representation by Emerald Green, where their ultimate goals are the same. The objectives of the parties need not match exactly, they may vary slightly while sharing the same goal, as they do here. *Pub. Serv. Co. of N.H. v. Patch*, 136 F.3d 197, 208 (1st Cir. 1998); *United Nuclear Corp. v. Cannon*, 696 F.2d 141, 144 (1st Cir. 1982) (intervention denied where parties shared same ultimate goal despite prospective intervenor having a more specialized interest). Moreover, Emerald Green has even more at stake than Local 25 in this proceeding, as the injunction requires it to hire discriminatees on an interim basis and recognize and bargain with Local 32BJ. Thus, as the district court noted, Emerald Green has a “considerably stronger interest” in avoiding the injunction than Local 25. (Docket #20, p. 6.) Indeed, the fact that Local 25 chose not to file exceptions to the decision of the NLRB’s administrative law judge in the underlying administrative case “implies that Teamsters Local 25 believed the exceptions filed by [Emerald Green] adequately represented its interests.” (Docket #20, p. 22.)

For these reasons, this Court, like the district court below, should deny Local 25’s motion for intervenor status.

December 18, 2015

Respectfully submitted,

s/Laura T. Vazquez
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CERTIFICATE OF SERVICE

I certify that this document was filed through the Court's CM/ECF system, that all counsel are registered CM/ECF participants and will be served via that system.

December 18, 2015

s/Laura T. Vazquez